

In The United States District Court
For The Northern District Of Texas
Dallas Division

Marguerite Hoffman,

Plaintiff,

v.

L&M Arts, David Martinez and
Studio Capital, Inc.,

Defendants.

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Civil Action No. 3:10-cv-0953-D

**DEFENDANTS STUDIO CAPITAL’S, DAVID MARTINEZ’S AND L&M ARTS’S
RESPONSE TO COURT’S INQUIRY REGARDING CASE MANAGEMENT**

Defendants Studio Capital, Inc., David Martinez and L&M Arts (collectively, “Defendants”) hereby submit this response to this Court’s inquiry regarding this case’s management, particularly regarding its trial setting and unresolved matters concerning possible further expert discovery.

In its November 26, 2012 Order granting Defendants’ motion for additional time to conduct discovery on new matters raised in the Third Amended Complaint and continuing the trial setting in this action to the two-week docket of Monday, August 19, 2013 (Dkt. No. 388), the Court noted that “[b]ecause the court has reset this case to this docket without determining whether counsel, their clients, or their witnesses have material conflicts – e.g., conflicting settings in cases that are likely to be tried and prepaid vacations – counsel should alert the court to such conflicts before seeking continuances in other cases, canceling vacations, or instructing clients and witnesses to do so.” Id. at 4.

Defendants are available during this period but they have been advised that Plaintiff has a prior personal commitment that would make it difficult for her to be available then, and she has

requested that the trial be held instead during the weeks of September 16-27, 2013. Defendants are amenable to this change, if it is acceptable to the Court.

As another matter of case management, Defendants respectfully draw this Court's attention to their pending Sealed Motion to Strike the "Supplemental" Expert Report of Victor Wiener. Motion to Strike, dated July 11, 2012 (Dkt. No. 277). Given the Court's Order extending the discovery deadline to March 15, 2013, it would now be possible, if the Motion to Strike were denied, for Defendants to retain an appraisal expert to rebut the new opinions offered by Mr. Wiener in his belated "supplemental" report in an effort to mitigate the prejudice set forth in the Motion to Strike as a result of that belated submission. Accordingly, Defendants respectfully request that the Court rule on the Motion to Strike, so that, if appropriate, Defendants can retain and submit a report from an appraisal expert and permit such expert's deposition (as well as the deposition of Mr. Wiener on his new opinions) within the new discovery period granted by the Court's November 26, 2012 Order. Of course, if the Motion to Strike were granted, as Defendants respectfully submit the Court should do, then there would be no need for an appraisal expert or further expert depositions.

Dated: December 6, 2012

Respectfully submitted,

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/s/ Kurt Schwarz

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CERTIFICATE OF SERVICE

The undersigned certifies that copies of the foregoing were served on the attorneys of record for all parties via the Court's ECF system.

/s/ Kurt Schwarz

Kurt Schwarz